

TODD KIM
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

RICKEY D. TURNER, JR., Senior Attorney
Wildlife & Marine Resources Section
999 18th Street, South Terrace, Suite 370
Denver, CO 80202
Tel: (303) 844-1373
rickey.turner@usdoj.gov
PAUL A. TURCKE, Trial Attorney
Natural Resources Section
150 M St. NE
Washington, D.C. 20002
Tel: (202) 353-1389
paul.turcke@usdoj.gov

Counsel for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN ALASKA
ENVIRONMENTAL CENTER, *et al.*,

Plaintiffs,

v.

DEBRA HAALAND, *et al.*,

Case No. 3:20-cv-00207-SLG

Defendants,

and

STATE OF ALASKA,

Intervenor-Defendant.

**JOINT MOTION FOR VOLUNTARY DISMISSAL
(Federal Rule of Civil Procedure 41(a)(2))**

N. Alaska Envtl. Ctr. v. Haaland, 3:20-cv-00207-SLG
J. MOT. FOR VOLUNTARY DISMISSAL

In accordance with the parties' previous status report and joint motion for extension (ECF No. 51), the Court's previous order (ECF No. 52), and Federal Rule of Civil Procedure 41(a)(2), Plaintiffs and the Federal Defendants hereby jointly move this Court to dismiss this case.

Plaintiffs filed this action on August 24, 2020, challenging Defendants' adoption of the 2020 Integrated Activity Plan (IAP) and Final Environmental Impact Statement (FEIS) for the National Petroleum Reserve-Alaska. ECF No. 1. Plaintiffs filed an amended complaint on February 15, 2021, requesting that the Court declare unlawful and set aside the 2020 IAP and FEIS, Record of Decision (ROD), and Biological Opinion from the U.S. Fish and Wildlife Service (USFWS). ECF No. 21.

On April 25, 2022, Defendant U.S. Bureau of Land Management (BLM), after issuing a Determination of National Environmental Policy Act (NEPA) Adequacy regarding the 2020 IAP FEIS and completing consultation with the USFWS and National Marine Fisheries Service under Section 7 of the Endangered Species Act, issued a new Record of Decision (ROD) selecting a different IAP alternative than that selected by the 2020 ROD challenged in this litigation.

On September 20, 2022, BLM completed an errata to the 2020 IAP FEIS, attached hereto as Exhibit 1, and published on the BLM ePlanning NEPA website.

The Ninth Circuit Court of Appeals in *Northern Alaska Environmental Center v. U.S. Department of the Interior* held that a lease sale constituting an irretrievable commitment of resources requires a site-specific analysis under NEPA.

983 F.3d 1077, 1087 (9th Cir. 2020) (“There is no question that the [National Petroleum Reserve–Alaska] oil and gas leases constitute an irretrievable commitment of resources, and thus require site specific analysis in [an] EIS.” (internal quotation marks omitted) (quoting *N. Alaska Envtl. Ctr. v. Kempthorne*, 457 F.3d 969, 975-76 (9th Cir. 2006))). The errata deletes language from the 2020 IAP FEIS representing that it would fulfill NEPA requirements for lease sales through at least December 2039 and potentially thereafter. The errata clarifies that the 2020 IAP FEIS is programmatic and is not intended to, by itself and without further NEPA analysis, fulfill NEPA requirements for future lease sales. Ex. 1 at 2.

In light of the clarifications in the errata and BLM’s representations therein about the scope of the 2020 IAP FEIS, Plaintiffs and the Federal Defendants hereby jointly move this court to dismiss this case with prejudice, with each side to bear its own attorneys’ fees and costs associated with this matter. Plaintiffs and Federal Defendants respectfully request the Court adopt the attached proposed order acknowledging the errata and the grounds for dismissing the case.

Counsel have conferred, and Intervenor-Defendant State of Alaska believes that the IAP/EIS was adequate in its analysis of oil and gas leasing, and supports compliance with NEPA for any future lease sales in the most targeted and expeditious manner possible. Nonetheless, the State takes no position on this motion.

Respectfully submitted this 21st day of September 2022.

TODD KIM
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

/s/ Paul A. Turcke
Paul A. Turcke
Trial Attorney
Natural Resources Section
150 M St. NE
Washington, D.C. 20002
E: paul.turcke@usdoj.gov
T: (202) 353-1389

Counsel for Defendants

Of Counsel:

MIKE GIERYIC
Office of the Regional Solicitor, Alaska Region
4230 University Drive, Suite 300
Anchorage, AK 99508
907-271-1420
mike.gieryic@sol.doi.gov

/s/Suzanne Bostrom (with consent)
Suzanne Bostrom (AK Bar No. 1011068)
Brook Brisson (AK Bar No. 0905013)
Bridget Psarianos (AK Bar No. 1705025)
Brian Litmans (AK Bar No. 0111068)
TRUSTEES FOR ALASKA
1026 W. Fourth Avenue, Suite 201
Anchorage, AK 99501
Phone: (907) 276-4244
Fax: (907) 276-7110
sbostrom@trustees.org
bbrisson@trustees.org
bpsarianos@trustees.org
blitmans@trustees.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2022, a copy of the foregoing was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ Paul A. Turcke
Paul A. Turcke